

Testimony of Benjamin Smith
on behalf of Houlton Water Company

L.D. 1959, "An Act To Ensure Transmission and Distribution Utility Accountability."
February 22, 2022

Senator Lawrence, Representative Berry and Members of the Energy, Utilities and Technology Committee:

My name is Benjamin J. Smith. I am an attorney with an office in Augusta. As part of my work, I practice in utility and energy law and I have served as counsel for several electric consumer-owned utilities ("COUs"). Prior to reentering private practice in 2014, I was a staff attorney and hearing examiner at the Maine Public Utilities Commission ("Commission"). I am speaking to you today on behalf of Houlton Water Company ("HWC"), a small COU in northern Maine, and in opposition to LD 1959.

HWC is owned by the Town of Houlton. Management of HWC is overseen by trustees whom are elected by citizens of the town who are also ratepayers. HWC was chartered by the Maine Legislature under by Private and Special Laws of 1880 and has been providing electricity service to customers for 120 years. Although it began as a water utility, HWC's utility offerings were expanded in 1902 to include electricity. HWC currently serves approximately 5,500 customers in Houlton, Hodgdon, Linneus, New Limerick, and Ludlow.

The obvious impetus for LD 1959 is to provide greater oversight over the operations of Maine's investor-owned utilities ("IOUs"), Central Maine Power Company ("CMP") and Versant Power ("Versant") and address growing concerns with their declining customer service and reliability performance. The bill seeks to improve their performance by imposing reporting requirements, performance standards, subjecting them to administrative penalties, and potentially allowing for divestiture if they fail to meet these standards and the needs of their ratepayers.

However, in attempting to correct problems with Maine's IOUs, LD 1959 would cast a net so broad that it would subject Maine's COUs, including HWC, to unnecessary regulatory burdens while, at the same time, undermining local control and the very management structure that has served their ratepayers well for over 100 years.

Section 1 one imposes performance standards upon HWC and other COUs that are not necessary as shown by historical performance. Over the last year, HWC received only five or six calls from customers, primarily related to non-payment issues. In a typical year, HWC only receives a handful of calls. Any complaints are quickly resolved and are handled directly by HWC management, including its General Manager.

Local oversight by HWC's management has been effective in meeting the needs of ratepayers. HWC provides safe, adequate, and reliable utility service to customers at rates that are among the lowest in the State. Because management is overseen by elected trustees, who themselves are electricity ratepayers, management and ratepayers alike have a shared common goal of achieving safe and reliable utility service at just and reasonable rates. Unlike IOUs, whose management have profit motives, there is no incentive on the part of HWC's management to incur unnecessary expenses or inflate costs when providing service. If ratepayers are dissatisfied with

local management, they have the ability to vote new people into office. Simply put, local management for COUs like HWC has been working.

Section 2 requires reports by T & D utilities on their cost of service. If there is a difference of more than 10% between the T & D utility's actual costs and their estimated cost of service based on their most recent rate case, the Commission may either require an audit or disallow cost recovery in the T & D utility's future rate case. Section 2 excludes utilities with less than 50,000 customers from the reporting obligations under this section. While it appears that each of the COUs would be exempted from this reporting requirement due to this threshold, the bill should simply be explicit in excluding all COUs from this requirement. Any additional reporting requirements imposed upon the COUs simply increase their regulatory burden, diverting resources from their fundamental mission to provide safe and reliable electricity service on an affordable basis.

Section 3 of the bill provides whistleblower protections for employees of a utility who may wish to testify before the Commission or legislative committees. The bill proposes to include employees of an affiliated interests of a utility, employees of a competitive electricity provider, or utility contractors in the group of persons protected from retaliatory activities. The bill also would include the Office of the Public Advocate as a potential forum to receive such testimony or information.

Although it might be appropriate to include the enhanced protections provided in section 3 for employees and contractors of Maine's IOUs, section 3 should exclude COUs as the provisions are inapplicable. HWC has no affiliated interests. HWC may occasionally engage contractors on larger projects, but employees of contractors are not overseen by or under the direct control of HWC.

Section 4 provides for administrative penalties if a utility fails to meet the performance standards and is worded to apply equally to IOUs and COUs. Like other COUs, HWC has met reasonable reliability and safety standards, as illustrated by the very few complaints received each year. Furthermore, because the interests of management of HWC are aligned with those of all ratepayers, there is already more than adequate incentive for COUs to provide reliable service and meet customers' needs.

Section 5 contains the most troubling language of LD 1959, allowing for divestiture of COUs and IOUs if they fail to meet metrics. Under a competitive solicitation process overseen by the Commission, a "qualified buyer" consisting of either an IOU or a consumer-owned quasi municipal corporation could acquire a Maine COU or IOU or its assets.

Effectively, this process could allow a COU to be replaced with an IOU or a quasi-municipal corporation chosen by the Commission. Management of these entities may have no local ties to the ratepayers served. LD 1959 would effectively override the legislative charters that sought to ensure that Maine's COUs would continue to be managed and overseen by local boards and persons whose interests are best aligned with the interests of ratepayers.

For the above reasons, I am asking that the bill explicitly exclude Maine's COUs from its provisions. The Legislature should allow Maine's COUs to continue providing safe, reliable, and affordable electricity service to ratepayers without interference.